IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

WP(C).No. 10776 of 2004(G)

PETITIONERS:

1. T.K.SHYAMSUNDAR, MANAGING PARTNER, LAKSHMI JEWELLERY, MAIN ROAD, PAYYANNUR, KANNUR DISTRICT.
2. C.V.CHANDRAMATHI, D/O.C.V.KUNHIKANNAN, ANNUR ROAD, MOORIKKOVVAL, P.O.PAYYANNUR, KANNUR DISTRICT.
3. C.V.LAKSHMI W/O. KUNHIKANNAN, ANNUR ROAD, MOORIKKOVVAL, P.O.PAYYANNUR, KANNUR DISTRICT.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENTS:

1. PAYYANNUR MUNICIPALITY, REPRESENTED BY SECR5ETARY, PAYYANNUR MUNICIPALITY, PAYYANNUR, KANNUR DISTRICT
2. THE MUNICIPAL COUNCIL, PAYYANNUR MUNICIPALITY,REPRESENTED BY THE CHAIRPERSON, PAYYANNUR MUNICIPAL COUNCIL, PAYYANNUR, KANNUR.
3. T.I.MADHUSOODANAN, VICE CHAIRMAN, PAYYANNUR MUNICIPAL COUNCIL, PAYYANNUR, KANNUR
4. KRISHNAN NAMBIAR.M., NEAR NAMBIATHRAKOVAL SIVA TEMPLE, PAYYANNUR, PAYYANNUR P.O., KANNUR DISTRICT.

BY ADV. SRI.GRASHIOUS KURIAKOSE
SRI.M.SASINDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE PARTITION DEED DATED 23.10.1972.

EXT.P2: COPY OF THE BUILDING TAX RECEIPTS DATED 2.1.2004.

EXT.P3: COPY OF THE LAND TAX RECEIPT DATED 3.10.2003.

EXT.P4: COPY OF THE LETTER DATED 27.9.2003 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONERS.

TRUE COPY

P.A.TO JUDGE

THOTTATHIL B.RADHAKRISHNAN,J

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W.P.(C).No.10776 of 2004

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Dated this the 11th day of July, 2007

JUDGMENT

Petitioners challenge Ext.P4 and seek a declaration that the respondents are not entitled to demolish the building No.XXI/2183, 2184 and 2185 situated in Payyannur Municipality.

2. There is no counter affidavit on record.

3. The contention of the petitioner that Ext.P4 does not stand in the light of the statutory provisions is only to be accepted because there is no provisions in the Kerala Municipality Act or in any other laws for the time being in force to demolish a private building as stated in Ext.P4. The proposal for widening the road is no ground to demolish any building without recourse to the due process of law.

In the result the writ petition is allowed declaring that the respondents are not entitled to demolish the building stated above on the basis of Ext.P4, and no action shall be taken except in accordance with law.

THOTTATHIL B.RADHAKRISHNAN, JUDGE

dvs